**Before the**
**FEDERAL COMMUNICATIONS COMMISSION**
**Washington, DC 20554**

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| In the Matter of | ) | |
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| Federal-State Joint Board on Universal Service | ) | CC Docket No. 96-45 |
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| Multi-Association Group (MAG) Plan For Regulation of Interstate Services Of Non-Price Cap Incumbent Local Interexchange Carriers | ) | CC Docket No. 00-256 |
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## REPLY COMMENTS

The National Exchange Carrier Association, Inc. (NECA) submits these comments in reply to AT&T's opposition to NTCA's petition for reconsideration of the Fourteenth Report and Order[1] (RTF Order).

NTCA requested that the Commission amend its safety valve rules to allow acquiring carriers to receive safety valve support for investments in acquired exchanges during the first year. NTCA also requested that the Commission amend its rules for calculating the indexed cap for the 2002 rural loop cost expense adjustment to ensure that rural carriers do not receive less funding on a monthly basis in 2002 than they will

[1] Federal-State Joint Board on Universal Service; Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, *Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket no. 96-45, and Report and Order in CC Docket No. 00-256,* 66 Fed. Reg. 30080 (2001)

receive in the last six months of 2001.[2] AT&T's characterization of these requests as unwarranted "embellishments" to the plan is inaccurate and contrary to the goals of the plan.

## I. Safety Valve

NTCA asked the Commission to amend its safety valve rules to allow acquiring carriers to receive safety valve support for investments in acquired exchanges during the first year. The current rules prohibit carriers from receiving additional universal service support during this period. According to NTCA, not only is this a disincentive for carriers to make network investments in the first year after acquisition, it is also a significant disservice to customers in acquired exchanges who will continue to receive substandard service for at least one more year.

AT&T contends that the RTF proposal accepted the concept that support for the first year post-acquisition would be limited by Section 54.305, which provides that the acquiring carrier is limited to receiving the same per-line level of high-cost universal support as was received by the seller at the time the exchanges were transferred. AT&T states that the purpose of this rule is to discourage carriers from transferring exchanges merely to increase their share of high-cost universal service support. AT&T further contends that NTCA's proposed mechanism for defining the index year expense adjustment is unworkable and that granting NTCA's recommendation would not further any legitimate public policy objective.

[2] NTCA proposes that 47 C.F.R. §36.603(a) be amended to calculate the rural carrier portion of the 2002 national loop cost expense adjustment using an annualized expense adjustment for 2001 based on the second half of the year 2001 and excluding the portion of the first half of the year 2001 limitation by the previous cap. See NTCA petition at 2.

On the contrary, NTCA's proposal is workable, reasonable, and sound public policy. It will allow carriers to receive timely and predictable support and encourage investment to upgrade plant and further basic universal service for consumers living in underserved and unserved areas of rural America. NTCA's proposal uses the seller's cost only to determine the acquiring carrier's safety valve support for the first year of operations. For each subsequent year, the safety valve support will be measured based on the acquiring carriers cost data. This should alleviate concerns that exchanges are transferred merely to increase a carrier's share of high-cost universal service support and yet provide the proper incentive for rural carriers to invest in the acquired exchange immediately in order to provide consumers with improved service in the first year of operation. Further, as NTCA points out, other factors will ensure that funding is not excessive and also encourage prudent network investment by the ILEC, such as the safety valve support limitations[3], state regulatory review of planned investments in acquired exchanges, and competitive pressure from wireless eligible telecommunications carriers.

## II. Calculation of the 2002 National Loop Cost Expense Adjustment

NTCA also asked the Commission to amend rule 47 C.F.R. § 36.603(a)[4] to calculate the indexed cap for the rural carrier portion of the 2002 national loop cost

[3] Per Section 54.305, Safety Valve support is limited to 50 percent of the difference between the index year and subsequent year expense adjustment for the acquired exchange and is capped at 5 percent of the indexed cap for the rural loop cost expense adjustment.

[4] Calculation of rural incumbent local exchange carrier portion of nationwide loop cost expense adjustment: (a) Effective July 1, 2001, the rural incumbent local exchange carrier portion of the annual nationwide loop cost expense adjustment will be recomputed by the fund administrator as if the indexed cap calculated pursuant to § 36.601(c) and the corporate operation expense limitation calculated pursuant to § 36.621 had not been effect for the calendar year 2000. For the period July 1, 2001, to December 31, 2001, the annualized amount of the rural incumbent local exchange carrier portion of the

expense adjustment using annualized payments based on the second half of 2001, thereby excluding the portion of the first half of the year 2001 limited by the previous cap. AT&T claims that NTCA's proposal seeks "to go beyond the generous support contemplated in the RTF proposal" and would be contrary to the Commission's intent.

NTCA's request is reasonable and consistent with the Commissions's intent. The Commission based its estimate[5] of the increase in rural carrier universal service funding on data submitted by the Rural Task Force.[6] This data assumed that the RTF plan would be implemented January 1, 2001. The delay in implementing the plan until July 1, 2001 should not cause 2002 monthly funding levels to be lower than the monthly funding levels in the second half of 2001, yet that is exactly what will occur if the revision requested by NTCA does not occur.

Based on USAC's August 2, 2001 filing of high cost loop support amounts[7], rural carriers are eligible for $82.5M in monthly support for July through December, 2001

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nationwide loop cost expense adjustment calculated pursuant to this subpart F shall not exceed the non-capped amount of the total rural incumbent local exchange carrier loop cost expense adjustment for the calendar year 2000, multiplied times one plus the Rural Growth Factor calculated pursuant of § 36.604. *Beginning January 1, 2001, the annual amount of the rural incumbent local exchange carrier portion of the nationwide loop cost expense adjustment calculated pursuant to this subpart F shall not exceed the amount of the total rural incumbent local exchange carrier loop cost expense adjustment for the immediately preceding calendar year, multiplied times one plus the Rural Growth Factor calculated pursuant to § 36.604.*

[5] See RTF Order at para. 28, estimating that the modified embedded cost mechanism will result in an increase in rural carrier support of approximately $1.26 billion over five years.

[6] See Letter from William R. Gillis, Chair, Rural Task Force, to Magalie Roman Salas, FCC, dated November 10, 2000 at Attachment 2.

[7] See USAC Quarterly Filing of Fund Size Projections and Contribution Base for the Fourth Quarter 2001, Appendix HC4, August 2, 2001.

under the new RTF mechanism. The projected annual total support amount for 2001 is $906.4M, consisting of approximately $411M in first half support under the old capping mechanism and $495M in second half support under the new RTF mechanism. The indexed cap on the rural carriers' 2002 loop cost expense adjustment can be estimated by multiplying the total projected 2001 support ($906.4M) by one plus the RGF[8], in accordance with Section 36.603(a). This result of this calculation is approximately $960M in annual high cost loop support for 2002, or $80M per month. On an annual basis, this is an increase of five and three quarters percent over 2001. However, when compared on a monthly basis to the last six months of 2001, it is a *decrease* of approximately 3 % from $82.5M to $80M per month. This inconsistency can be rectified by adopting NTCA's recommendation to calculate the indexed cap on rural carrier 2002 loop cost expense adjustment using annualized payments based on the second half of 2001. Such action is appropriate to achieve the goals of the RTF Order, not an "embellishment" as AT&T suggests.

[8] Current year RGF is 5.73%. See National Exchange Carrier Association, Inc., Universal Service Fund Rural High Cost Loop Support effective July 2001 - Amended Filing (filed July 23, 2001)

## III. Conclusion

NTCA's request that the Commission amend the safety valve rules and the rules concerning the computation of the indexed cap on rural carrier 2002 loop cost expense adjustment is well justified, consistent with the goals of the RTF Order, and should be adopted.

Respectfully submitted,

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August 10, 2001

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the Reply Comments was served this 10th day of August 2001, by electronic delivery or first class mail, to the persons listed below.

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